

Appln No. 09/775,677
Amdt date December 9, 2005
Reply to Office action of August 9, 2005

REMARKS/ARGUMENTS

This amendment is submitted in response to the Final Office action mailed August 9, 2005. Claims 22, 38 and 40 have been amended. Claims 25-27, 32-36, and 74 are withdrawn. Claims 75-85 have been cancelled without prejudice. Claims 86-89 have been added. Accordingly, claims 14-17, 22, 30, 37-40 and 86-89 are currently pending. Applicant acknowledges with appreciation that claims 14-17 are allowed.

On page 2 of the Office action, claim 77 is rejected under 35 U.S.C. 101 because the claimed invention is allegedly directed to non-statutory subject matter. Claim 77 has been cancelled without prejudice.

On pages 3-6 of the Office action, claims 22, 30, 37-40, 75-82, 84 and 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imran in view of Orth, and claim 83 is rejected under 35 U.S.C. 103(a) as being unpatentable over Imran and Orth and further in view of Lunn.

On page 3, the Examiner states that Imran discloses a medical device with all the elements of independent claim 22, "but is silent to the elongate body being adapted to exert a force from within the coronary sinus onto the mitral valve annulus in order to remodel the mitral valve annulus." The Examiner then states on page 4 that it would have been obvious to one of ordinary skill in the art to look to the teachings of Orth to modify the elongate body (11) of Imran by having two first segments (20, 40) be barb forming stents in order for the barbs to contact and penetrate the vessel wall. The Examiner states that this will anchor and affix the stent to the vessel wall and prevent migration of the stent. The Examiner then states that when the first segments are expanded and affixed to the coronary sinus wall, "subsequent expansion of the second segment (60) will reduce a longitudinal length of a portion of the coronary sinus." Applicant respectfully submits that Imran fails to teach "subsequent expansion of the elongate body after it is affixed to the coronary sinus wall". Accordingly, it is believed that claim 22 is patentable over Imran in view of Orth.

In particular, claim 22 has been amended to recite the following:

- an elongate body "adapted to be fixed to the vessel"

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- "the elongate body being adapted to adjust to the second configuration after it is fixed to the vessel", and
- the elongate body being adapted "after it is fixed to the coronary sinus" to remodel a mitral valve annulus adjacent to the coronary sinus.

While Orth arguably teaches a stent that forms barbs upon expansion for contacting and penetrating the vessel wall in order to anchor and affix the stent thereto, neither Imran nor Orth teach or suggest that the stent is adapted "after it is fixed to the coronary sinus" to remodel a mitral valve annulus adjacent to the coronary sinus.

It is noted that the purpose of the Imran stent is "for deployment within tubular anatomical structures within the body, for supporting the walls of the structures" (col. 1, lines 5-7). There is no teaching of any remodeling of the structure after the stent has been expanded. In addition, Imran discloses deployment of the full stent in one step, e.g., by inflating a balloon to expand the stent into its desired size or by use of a self-expanding stent (col. 6, lines 58-67). In other words, even if the Imran stent is provided with the barb forming segments of Orth, the change in length of the stent will occur during expansion of the stent, i.e., before the stent is fixed in place by the barbs. Once the stent is fixed in place, Imran fails to teach or suggest any further step, and indeed, the stent is at that point fully performing its function of supporting the walls of the tubular anatomical structure. In view of the above, applicant respectfully submits that claim 22 is patentable over Imran in view of Orth.

Independent claims 38 and 40 have been amended to include the above-recited limitations added to claim 22. Accordingly, these claims are also believed to be patentable.

Claims 30 and 37 depend from claim 22 and claim 39 depends from claim 38. Accordingly, because these claims depend from allowable independent claims and because they contain additional limitations further distinguishing these claims from the cited references when considered as a whole, these claims are also believed to be patentable.

Applicant also respectfully requests that claims 25-27, 32-36, and 74 which were withdrawn from further consideration as being drawn to a non-elected species, now be

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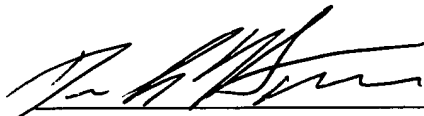
considered for further examination on the merits. Since these claims depend on allowable independent claims and because they contain additional limitations further distinguishing these claims from the cited art when considered as a whole, these claims are also believed to be patentable.

New independent claim 89 contains all of the limitations of claim 22 and, in addition, recites that the elongate body is biased to the second shape and the second shape is a bent shape. Accordingly, claim 49 is also believed to be patentable.

In view of the above, applicant respectfully requests reconsideration of the application and allowance of claims 14-17, 22, 25-27, 30, 32-40 and 74.

Respectfully submitted,

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